

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION

MARC E. OLIVER, d/b/a GULF COAST	:	
ENVIRONMENTAL AND RECOVERY,	:	
And T.M. JEMISON CONSTRUCTION	:	
CO. INC. d/b/a JEMISON MARINE, INC.,	:	
Plaintiffs,	:	CA 11-0223-KD-C
MIDSOUTH BANK, N.A.,	:	IN ADMIRALTY
Plaintiff/Counter-Defendant	:	<i>In Personam and In Rem</i>
vs.	:	
M/V BARBARY COAST, her engines, tackle, furniture, and appurtenances, etc.,	:	
<i>In Rem</i> , and RODD CAIRNS, an individual, and ATCHAFALYA MARINE,	:	
LLC, <i>In personam</i> ,	:	
Defendants/Counter-Plaintiffs/ Third-Party Plaintiffs,	:	
vs.	:	
EAGLE RIVER TOWING, L.L.C., p/k/a or a/k/a EAGLE INLAND TOWING,	:	
NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA,	:	
LOUISIANA LIMESTONE & LOGISTICS, L.L.C., and CURTIS BUFORD,	:	
Third-Party Defendants.	:	

**ORDER**

After due and proper consideration of all portions of this file deemed relevant to the issues raised, and a *de novo* determination of those portions of the recommendation to which objection is made, the Court finds as follows:

- 1) That portion of the Report and Recommendation (Doc. 96) of the Magistrate Judge made under 28 U.S.C. § 636(b)(1)(B) and dated August 26, 2011, recommending that Defendant Rodd Cairns' motion to dismiss (Doc. 48) be **DENIED AS MOOT**, is hereby **ADOPTED** as the opinion of this Court.

2) Concerning the Plaintiffs Mark Oliver and T.M. Jemison Construction Co.'s motion to strike/dismiss Midsouth's answer and counterclaim (Doc. 47), the Court notes that embedded in Midsouth's Objection (Doc. 103) to the Report and Recommendation (Doc. 96), is a motion for leave of Court to file its answer out of time.

Accordingly, it is **ORDERED** that any Response to Midsouth's motion for leave of Court to file its answer out of time (Doc. 103) shall be filed on or before **September 14, 2011**.

**DONE** and **ORDERED** this the **6<sup>th</sup>** day of **September 2011**.

/s/ Kristi K. DuBose  
**KRISTI K. DUBOSE**  
**UNITED STATES DISTRICT JUDGE**